

Honorable Melvin Price, Chairman
Committee on Armed Services
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in reply to your request for our comments on H.R. 11654, a bill "To amend the Central Intelligence Agency Act of 1949 to prohibit expenditures for intelligence gathering by clergymen, and for other purposes."

Essentially, the bill does three things. First, it prohibits expenditures by the Agency for certain purposes involving clergy and employees or affiliates of any religious organization, association or society. Second, the bill establishes criminal sanctions for any person soliciting or accepting the services of clergy or members of religious organizations for the proscribed purposes. Finally, the bill requires the public disclosure of any financial transaction between the Agency and the prescribed class (clergy) for any purpose. The bill contains identical provisions applicable to the Defense Intelligence Agency, the National Security Agency, or any other intelligence-gathering office or agency of the Department of Defense.

As noted in my public statement of 11 February 1976, it is this Agency's policy not to maintain any secret paid or contractual relationship with any American clergyman or missionary. H.R. 11654, however, goes far beyond this issue by prohibiting the use of funds to obtain intelligence from any clergy--American or foreign--by preventing the Agency from working with clergy, here or abroad, or with those affiliated with religious organizations in virtually any manner whatsoever, and by requiring detailed public disclosure of all payments to members of religious organizations.



It is clear that the church in many countries of the world plays an important, at times crucial, role in their respective socio-political systems. Foreign clergy frequently enjoy unique access to certain groups and individuals with ideas, opinions, and contacts not open to us by other means. Often these individuals offer information to us with the view that they are aiding their own country and their organization's best interests. To prohibit the Agency from maintaining access to these groups and individuals would block off a valuable and legitimate avenue of intelligence.

The bill, by referring simply to "clergy" or any "religious organization, association, or society," imposes a burden for determining who in fact is a member of the clergy or affiliate of a religious organization, without adequate guidelines. For example, how would the determination apply to areas of the world where a majority of the male population are "clergymen" of the Buddhist faith, as required by their religion, even though they may pursue other professions for most of their lives, or to Federal employees who are "affiliated" with religious organizations or who may themselves be ordained? Agency contacts with certain schools run by clergy or religious groups, in connection with research projects or as part of our background investigations of prospective employees, could also be affected adversely by this bill.

While I am certain H.R. 11654 is not intended to curtail such clearly proper activities, the language of the bill could be interpreted so as to preclude them. A related problem is that the proposed new subsection (c) in the bill would require publication in the Federal Register whenever one of the described persons is paid by the Agency, or by another person performing a function of the Agency, regardless of the purpose of the payment. Thus, although the prohibitions in the bill are directed exclusively against intelligence gathering or participation in Agency operations, the provision requiring publication would extend to a number of other clearly proper activities. This raises a statutory problem in that it could conflict with section 6 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C.A. 403 (g)), which, in the interests of maintaining the security of the foreign intelligence activities of the United States, exempts the Agency from the required publication or disclosure of "the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency."

It is my belief that the policy I enunciated on 11 February prohibiting secret paid or contractual relations with any American clergy responds to the major concern underlining the bill, without restricting the right of Americans to volunteer information to their government or limiting the U.S. Government's foreign intelligence capabilities. In light of the above considerations, I would oppose favorable consideration of this bill by the Committee. It is my understanding that the Department of Defense is preparing a letter detailing its objections to the bill.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

George Bush
Director